

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF:

ROUND LAKE SANITATION CORPORATION,
and I.S.A. IN NEW JERSEY, INC.,

Settling Parties.

Proceeding under Section 122(h) (1)
of the Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980, as amended,
42 U.S.C. §9622(h) (1)

ADMINISTRATIVE COST-
RECOVERY AGREEMENT

EPA INDEX NUMBER
II CERCLA-95-0214

THIS ADMINISTRATIVE COST-RECOVERY AGREEMENT entered into between the United States Environmental Protection Agency ("EPA"), an agency of the United States authorized to undertake a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §9601 et. seq., and ROUND LAKE SANITATION CORPORATION, a New York corporation ("Round Lake") and I.S.A. IN NEW JERSEY, INC., a New Jersey corporation ("I.S.A.") (each a "Settling Party" and collectively the "Settling Parties"),

WITNESSETH, that:

WHEREAS, EPA believes that each Settling Party is liable to the United States for response costs at the Ramapo Landfill Superfund Site, located off Torne Valley Road in the Town of Ramapo, Rockland County, New York (the "Ramapo Site") pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a), and that the United States has a claim under said Section 107(a) of CERCLA against each Settling Party for reimbursement of certain response costs

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incurred by the United States pursuant to CERCLA in connection with the Ramapo Site;

WHEREAS, the Settling Parties seek to settle their potential liability pursuant to said Section 107(a) of CERCLA to the United States for costs of response incurred by the United States under CERCLA, in connection with the Ramapo Site;

WHEREAS, EPA and the Settling Parties desire to settle the matters addressed herein without litigation and without the admission or adjudication of any issue of fact or law;

WHEREAS, EPA is authorized to enter into this Agreement pursuant to the authority vested in the Administrator of the EPA by Section 122(h) (1) of CERCLA, which authority has been delegated to the Regional Administrators of EPA by EPA Delegation No. 14-14-D (Sept. 13, 1987);

WHEREAS, the Ramapo Site includes a parcel of land of approximately ninety-six (96) acres on which landfill operations were conducted between the years 1971 and 1984;

WHEREAS, EPA has determined that "hazardous substances," as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14), were disposed of at the Ramapo Site and released into the environment, or that there was a substantial threat of their release into the environment, at and from the Ramapo Site;

WHEREAS, pursuant to section 104 of CERCLA, 42 U.S.C. §9604, EPA undertook certain response actions to address the release or threat of release of hazardous substances at or from the Ramapo Site;

WHEREAS, as of September 1, 1995, EPA had incurred response costs pursuant to Section 104 of CERCLA of not less than three hundred thousand dollars (\$300,000) at or in connection with the Ramapo Site;

WHEREAS, the Ramapo Site was added to the National Priorities List of sites of known or threatened releases of hazardous substances, pollutants, and contaminants pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, on September 1, 1983;

WHEREAS, following the performance of a remedial investigation and feasibility study, EPA, on March 31, 1992, issued a Record of Decision documenting the selection of a remedy to address the release or threatened release of hazardous substances at or from the Ramapo Site;

WHEREAS, the State of New York ordered the Town of Ramapo, as a potentially responsible party under CERCLA, to perform the selected remedy for the Ramapo Site;

WHEREAS, the Ramapo Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9);

WHEREAS, each Settling Party is a "person," as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21);

WHEREAS, EPA believes that Round Lake and I.S.A. conducted a waste-hauling business during the period between 1972 and 1978 and, in connection with such business, collected industrial and commercial waste containing "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14) and, that each

Settling Party selected the Ramapo Site for the disposal of such wastes, and disposed of such wastes at the Ramapo Site;

WHEREAS, on October 8, 1991, I.S.A., Round Lake and other individuals and entities were indicted by a grand jury empaneled in the United States District Court for the Southern District of New York on numerous federal felony charges;

WHEREAS, on September 25, 1992, I.S.A., Round Lake and other indicted and unindicted parties entered into an agreement with the United States Attorney for the Southern District of New York with regard to the indictment (the "Plea Agreement") which required, among other things, the sale of I.S.A. and Round Lake;

WHEREAS, on October 14, 1994, the United States entered into an Agreement and Covenant Not to Sue pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§9606 and 9607(a), with Browning-Ferris Industries of New York, Inc.; Browning-Ferris Industries of Patterson, N.J., Inc.; and Browning-Ferris Industries of South Jersey, Inc. (collectively referred to as "BFI") regarding the purchase by BFI of the assets of I.S.A., Round Lake, and other entities, in exchange for the payment of two hundred and fifty thousand dollars (\$250,000), of which, six thousand two hundred and fifty dollars (\$6,250) was paid on account of response costs incurred by EPA at the Ramapo Site;

WHEREAS, on October 15, 1994, BFI acquired the assets of Round Lake, I.S.A., and other entities pursuant to Asset Purchase Agreements, the terms of which were approved by the United States

Attorney for the Southern District of New York in accordance with the Plea Agreement; and

WHEREAS, in order to provide funds to the Settling Parties for the CERCLA settlement witnessed herein, and for other administrative or judicial CERCLA settlements, or final judgments, I.S.A. and Round Lake directed BFI to pay one million dollars (\$1,000,000) of the purchase price to Bankers Trust Company, as escrow agent (the "Escrow Agent") pursuant to an escrow agreement dated October 15, 1994 between the Escrow Agent, the United States of America (acting on behalf of EPA), and I.S.A. and Round Lake (the "Escrow Agreement"), pursuant to which, the Escrow Agent has received the sum of one million dollars (\$1,000,000) to be held in escrow pending final judgments on the liability of I.S.A. and Round Lake under CERCLA, or the administrative or judicial settlements of such liability, and to be disbursed as directed upon final judgments or administrative or judicial settlements of such liability;

NOW, THEREFORE, EPA and the Settling Parties, in consideration of the rights and obligations contained herein, and intending to be legally bound hereby, agree as follows:

1. This Administrative Cost-Recovery Agreement shall be binding upon EPA and upon each Settling Party, and the directors, officers, employees, agents, successors and assigns of each Settling Party. Each signatory to this Administrative Cost-Recovery Agreement on behalf of a Settling Party represents that he or she is fully authorized to enter into the terms and

conditions of this Administrative Cost-Recovery Agreement and to bind legally the party represented by him or her. Each Settling Party agrees to undertake all actions required by this Administrative Cost-Recovery Agreement. Each Settling Party consents to the terms and conditions of this Administrative Cost-Recovery Agreement, and each Settling Party agrees that it will not contest the validity or terms hereof in any action brought by the United States to enforce it.

2. Each Settling Party acknowledges that, for purposes of the Escrow Agreement: (i) the claims of EPA against Settling Parties under CERCLA §107(a) with respect to the Ramapo Site which are addressed in this Administrative Cost-Recovery Agreement constitute an "Enforcement Action" as defined in the Escrow Agreement; (ii) this Administrative Cost-Recovery Agreement is an administrative settlement resolving claims against the Settling Parties with respect to that Enforcement Action within the meaning of the Escrow Agreement; and (iii) as of its effective date, this Administrative Cost-Recovery Agreement shall be deemed to be entry of a Final Judgment as contemplated by paragraph 5 of the Escrow Agreement.

3. Upon the effective date of this Administrative Cost-Recovery Agreement, the Settling Parties shall pay to the EPA Hazardous Substance Superfund the sum of twenty-five thousand dollars (\$25,000) plus interest, as follows: The Settling Parties hereby acknowledge and agree that upon the effective date of this Administrative Cost-Recovery Agreement, the Escrow Agent

is authorized to pay, on the Settling Parties' behalf, to the EPA Hazardous Substance Superfund, the sum of twenty-five thousand dollars (\$25,000), plus all interest in the escrow account apportioned to said twenty-five thousand dollars (\$25,000) from the date such funds were placed in escrow, and each Settling Party hereby requests the United States to notify the Escrow Agent of the effectiveness of this Administrative Cost-Recovery Agreement and to direct disbursement of twenty-five thousand dollars (\$25,000) plus interest to the United States on behalf of the Settling Parties. Each Settling Party agrees to take such further action at the request of the United States as may be necessary or appropriate to cause the Escrow Agent to make such payment. EPA acknowledges that payment of twenty-five thousand dollars (\$25,000) plus interest from the Escrow Agent as required by this Administrative Cost-Recovery Agreement shall be deemed to satisfy the obligations of the Settling Parties to make such payment as required by this Administrative Cost-Recovery Agreement. In the event that the Escrow Agent fails to make such payment, for any reason, then Settling Parties shall remain liable.

4. A. The payment required by Paragraph 3 of this Administrative Cost-Recovery Agreement shall be made by certified or cashier's check made payable to "EPA-Hazardous Substance Superfund," and shall be sent to:

EPA Region II
Attn: Superfund Accounting
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Each check shall be accompanied by correspondence referencing the name and address of the Settling Parties; the name "Ramapo Landfill Superfund Site;" the site identification number "02-48;" and EPA index number "II CERCLA-95-0214."

B. The Escrow Agent shall be requested to simultaneously send a copy of the check or checks and the accompanying correspondence to Michael A. Mintzer, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region II, 290 Broadway, 17th Floor, New York, NY 10007-1866.

5. Any Settling Party who fails or refuses to comply with any term or condition of this Administrative Cost-Recovery Agreement shall be subject to enforcement action pursuant to Sections 122(h)(3) and/or 122(1) of CERCLA, 42 U.S.C. §§9622(h)(3), 9622(1), in addition to any other remedies or sanctions available to EPA.

6. EPA agrees, subject to Paragraph 7 of this Administrative Cost-Recovery Agreement, that upon payment by the Settling Parties (or by the Escrow Agent on behalf of the Settling Parties) as required by Paragraph 3 of this Administrative Cost-Recovery Agreement, the Settling Parties shall have resolved any and all civil liability to EPA under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), for the reimbursement of response costs incurred by EPA at or in connection with the Ramapo Site on or prior to September 1, 1995.

7. Nothing in this Administrative Cost-Recovery Agreement is intended to be nor shall it be construed as a release,

covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, and the United States reserves, and this Administrative Cost-Recovery Agreement is without prejudice to, all rights against the Settling Parties with respect to all other matters, including the following:

A. any liability as a result of failure to make the payments required in Paragraph 3 of this Administrative Cost-Recovery Agreement or other failure to comply with the terms of this Administrative Cost-Recovery Agreement; or

B. any liability not expressly included in Paragraph 6 above, including without limitation, any liability for (i) injunctive relief at the Ramapo Site, (ii) response costs at or in connection with the Site after September 1, 1995, (iii) damages for injury to or loss or destruction of natural resources, including the reasonable costs of assessing such injury, destruction, or loss, or (iv) criminal liability.

8. Nothing in this Administrative Cost-Recovery Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a party to this Administrative Cost-Recovery Agreement.

9. The Settling Parties agree not to assert any claims or causes of action against the United States or the EPA Hazardous

Substance Superfund, including claims pursuant to Sections 106(b)(2), 111, 112 and/or 113 of CERCLA, 42 U.S.C. §§9606(b)(2), 9611, 9612, and 9613, arising out of response activities undertaken at the Ramapo Site or arising out of the settlement witnessed by this Administrative Cost-Recovery Agreement, nor to seek any other costs, damages, attorney's fees, or other relief from the United States, its agencies, employees or contractors arising out of response activities undertaken at the Ramapo Site or arising out of the settlement witnessed by this Administrative Cost-Recovery Agreement.

10. Nothing in this Administrative Cost-Recovery Agreement shall be deemed to constitute preauthorization of a CERCLA claim within the meaning of Section 111 of CERCLA, 42 U.S.C. §9611, or Section 300.700(d) of the National Contingency Plan, 40 C.F.R. §300.700(d).

11. With regard to claims for contribution against Settling Parties for matters addressed in this Administrative Cost-Recovery Agreement, the parties hereto agree that the Settling Parties are entitled, as of the effective date of this Administrative Cost-Recovery Agreement, to such protection from contribution actions or claims as is provided in Section 122(h)(4) of CERCLA, 42 U.S.C. §9622(h)(4). Such protection with respect to each Settling Party is conditional upon that Settling Party's compliance with the requirements of this Administrative Cost-Recovery Agreement. The matters addressed by this Administrative Cost-Recovery Agreement are the liability of the

Settling Parties for the response costs incurred by EPA at or in connection with the Ramapo Site on or prior to September 1, 1995.

12. This Administrative Cost-Recovery Agreement shall not be construed as limiting in any way the response or enforcement authority of EPA pursuant to Sections 104, 106, or 107 of CERCLA, 42 U.S.C. §§9604, 9606, 9607, or any other provision of law, except as expressly set forth herein.

13. EPA and Settling Parties agree that this Administrative Cost-Recovery Agreement is entered into without any admission of liability for any purpose as to any matter arising out of the transactions or occurrences alleged in this Administrative Cost-Recovery Agreement.

14. This Administrative Cost-Recovery Agreement shall be subject to a thirty (30)-day public comment period pursuant to Section 122(i) of CERCLA, 42 U.S.C. §9622(i). In accordance with Section 122(i)(1) of CERCLA, notice of this Administrative Cost-Recovery Agreement shall be published in the Federal Register. In accordance with Section 122(i)(3) of CERCLA, EPA may thereafter withdraw or withhold its consent to the settlement embodied in this Administrative Cost-Recovery Agreement if comments received during the public comment period disclose facts or considerations which indicate that this Administrative Cost-Recovery Agreement is inappropriate, improper or inadequate.

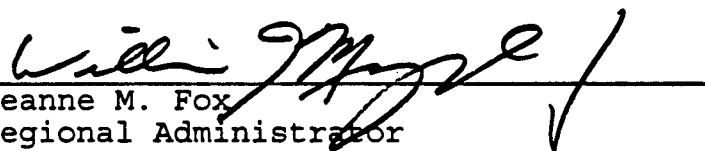
15. The Attorney General or her designee has given her written approval to this Administrative Cost-Recovery Agreement

as required by Section 122(h)(1) of CERCLA, 42 U.S.C. §9622(h)(1), prior to its effective date.

16. The effective date of this Administrative Cost-Recovery Agreement shall be the date upon which EPA issues written notice to the Settling Parties that the public comment period pursuant to Paragraph 14 of this Administrative Cost-Recovery Agreement has closed and that EPA has not withdrawn or withheld its consent to the settlement. Notice to the Settling Parties shall be sent to counsel to the Settling Parties: Kevin Brown, Esq., at Mannion, Copani, Alderman & Brown, 224 Harrison Street, Suite 306, Syracuse, New York 13202.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY



Jeanne M. Fox
Regional Administrator
U.S. Environmental Protection Agency
Region II

9/29/55
Date signed

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ADMINISTRATIVE COST-RECOVERY AGREEMENT IN THE MATTER OF ROUND
LAKE SANITATION CORPORATION and I.S.A. IN NEW JERSEY, INC.

EPA INDEX NUMBER II CERCLA-95-0214

Each Settling Party identified below confirms that it has had an opportunity to confer with EPA regarding this Administrative Cost-Recovery Agreement. Each Settling Party hereby consents to this Administrative Cost-Recovery Agreement and to its terms. The individual executing this Administrative Cost-Recovery Agreement on behalf of each Settling Party certifies under penalty of perjury under the laws of the United States and of the State of New York that he or she is fully and legally authorized to agree to the terms and conditions of this Administrative Cost-Recovery Agreement and to bind Settling Party thereto.

ROUND LAKE SANITATION CORPORATION

John A. Mungelli
By (signature)

9/29/95
Date signed

(printed name of signatory)

CM
(title of signatory)

I.S.A. IN NEW JERSEY, INC.

Joseph N. Mungelli / KB
Ken / Brown as authorized representative
By (signature)

9/29/95
Date signed

(printed name of signatory)

Attorney for I.S.A. in New Jersey Inc
(title of signatory)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

March 17, 1996

ROUND LAKE SANITATION CORPORATION

and

I.S.A. IN NEW JERSEY, INC.

c/o

Kevin Brown, Esq., as attorney
Mannion, Copani, Alderman & Brown
224 Harrison Street
Suite 306
Syracuse, New York 13202

Re: Administrative cost recovery agreement between EPA and Round Lake and ISA (Index No. II CERCLA-95-0214) under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9622(h)(1), relating to the Ramapo Landfill Superfund Site (the "Ramapo Administrative Cost Recovery Agreement").

Dear Sirs:

The Ramapo Administrative Cost Recovery Agreement was the subject of a public notice in the Federal Register of January 29, 1996 at page 2825 (61 Fed. Reg 2825).

Pursuant to Paragraph 16 of the Ramapo Administrative Cost Recovery Agreement you are hereby given written notice that the public comment period pursuant to Paragraph 14 of the Ramapo Administrative Cost Recovery Agreement has closed and that EPA has not withdrawn or withheld its consent to the settlement.

Accordingly, the effective date of Ramapo Administrative Cost Recovery Agreement is the date of this letter.

Sincerely yours,

Michael A. Mintzer
Assistant Regional Counsel
Office of Regional Counsel

cc: Tim Webster, Department of Justice
William Hoffman, Assistant US Attorney